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# A BILL FOR AN ACT

RELATING TO THE SEXUAL ASSAULT OF AN ANIMAL.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the sexual assault  
2 of an animal, or bestiality, is prohibited in forty-six states.  
3 While Hawaii has strong animal cruelty laws, the sexual  
4 molestation of animals by humans is not adequately addressed.  
5 Animal cruelty laws require proof of specific actions, such as  
6 torture, actions that inflict bodily injury to the animal, or  
7 actions that cause the animal's death. Some sexual assaults of  
8 animals cannot be prosecuted under animal cruelty laws because  
9 they do not cause bodily injury. Additionally, many acts of  
10 animal sexual abuse are discovered long after the incident  
11 occurs, limiting the available evidence.

12           The legislature further finds that the sexual assault of an  
13 animal can be a strong predictor of a tendency to commit other  
14 violent and sexual crimes. A study of more than forty-four  
15 thousand adult male sex offenders concluded that the sexual  
16 assault of an animal is the strongest predictor of the sexual  
17 assault of a child. Some studies have also drawn connections



1 between the sexual assault of animals and serial homicide. For  
2 this reason, the Federal Bureau of Investigation tracks  
3 bestiality and other forms of animal cruelty as group A offenses  
4 in the national incident-based reporting system--the same  
5 category used to track rape and murder.

6 The legislature finds that establishing the sexual assault  
7 of an animal as a separate crime will allow state law  
8 enforcement officers to better identify potentially dangerous  
9 and violent sexual predators in their communities.

10 Accordingly, the purpose of this Act is to prohibit the  
11 sexual assault of an animal in the State.

12 SECTION 2. Chapter 711, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§711- Sexual assault of an animal. (1) A person  
16 commits the offense of sexual assault of an animal if the person  
17 knowingly:

18 (a) Subjects an animal to sexual contact;

19 (b) Possesses, sells, transfers, purchases, or otherwise  
20 obtains an animal with the intent to subject the  
21 animal to sexual contact;



1        (c) Organizes, promotes, conducts, or participates as an  
2        observer in an act where an animal is subject to  
3        sexual contact;

4        (d) Causes, coerces, aids, or abets another person to  
5        subject an animal to sexual contact;

6        (e) Permits sexual contact with an animal to be conducted  
7        on any premises under the person's charge or control;

8        (f) Advertises, solicits, offers, or accepts the offer of  
9        an animal with the intent that it be subjected to  
10       sexual contact in the State; or

11       (g) Subjects an animal to sexual contact in the presence  
12       of a minor.

13       (2) This section shall not apply to the following  
14       practices:

15       (a) Veterinary medicine;

16       (b) Artificial insemination of animals for the purpose of  
17       procreation;

18       (c) Animal husbandry;

19       (d) Conformation judging; or

20       (e) Customary care of an animal by its owner.



1       (3) Sexual assault of an animal is a class C felony;  
2 provided that if the offense subjected a minor to sexual contact  
3 with an animal or was committed in the presence of a minor as  
4 defined in section 706-606.4, the offense is a class B felony.

5       (4) Each violation of this section shall constitute a  
6 separate offense.

7       (5) Upon conviction, guilty plea, or plea of nolo  
8 contendere for any violation of this section, the defendant  
9 shall be:

10       (a) Ordered to:

11           (i) Surrender or forfeit the animal whose sexual  
12           assault was the basis of the conviction or plea  
13           to the custody of the animal service contractor  
14           in the county where the offense took place for  
15           the time and under the conditions ordered by the  
16           court;

17           (ii) Surrender or forfeit any other animals in the  
18           defendant's possession, custody, or control to  
19           the animal service contractor in the county where  
20           the offense took place for the time and under the  
21           conditions ordered by the court; provided that



1           there is substantial evidence that the animals  
2           are being abused in violation of this section;

3           (iii) Reimburse the animal service contractor in the  
4           county where the offense took place for  
5           reasonable costs incurred to care for, feed,  
6           house, and medically treat any animal sexually  
7           assaulted under this section;

8           (iv) Attend an appropriate treatment program or obtain  
9           psychiatric or psychological counseling, at the  
10           defendant's expense; and

11           (v) Make restitution to the owner of the animal,  
12           including reimbursement for any expenses incurred  
13           for medical treatment or rehabilitation; provided  
14           that the defendant is not the owner of the animal  
15           whose sexual assault was the basis of the  
16           conviction or plea.

17           (b) Prohibited from:

18           (i) Harboring, owning, possessing or exercising  
19           control over any animal;

20           (ii) Residing in any household where animals are  
21           present; or



1           (iii) Engaging in any occupation, whether paid or  
2           unpaid, or participating in a volunteer position  
3           at any establishment where animals are present,  
4           for the length of time that the court deems  
5           reasonable for the protection of all animals but  
6           not less than five years after the person's  
7           release from imprisonment or court supervision.

8           (6) Prosecution under this section does not preclude  
9           prosecution under any other law. Nothing in this section is  
10           intended to affect any civil remedies available for a violation  
11           of this section.

12           (7) As used in this section, "sexual contact" means:

13           (a) Any act between a person and an animal involving  
14           contact between the sex organs or anus of one and the  
15           mouth, anus, or sex organs of the other;

16           (b) Any touching or fondling by a person of the sex organs  
17           or anus of an animal;

18           (c) Any transfer or transmission of semen by the person  
19           upon any part of the animal; or

20           (d) Any insertion, however slight, of any part of a  
21           person's body, or any object manipulated by the



1           person, into the vaginal or anal opening of an animal,  
2           or the insertion of any part of the animal's body into  
3           the vaginal or anal opening of the person.

4           (8) Violations of this section, including the sexual  
5           assault of any type of animal, shall be subject to the search,  
6           impound, and forfeiture provisions in section 711-1109.1 and  
7           711-1109.2."

8           SECTION 3. Section 706-606.4 is amended by amending  
9           subsection (2) to read as follows:

10           "(2) As used in this section:

11           "In the presence of a minor" means in the actual physical  
12           presence of a child or knowing that a child is present and may  
13           hear or see the offense.

14           "Offense" means a violation of section 707-710 (assault in  
15           the first degree), 707-711 (assault in the second degree),  
16           707-730 (sexual assault in the first degree), 707-731 (sexual  
17           assault in the second degree), 707-732 (sexual assault in the  
18           third degree), [~~or~~] 709-906 (abuse of family or household  
19           members) [-], or 711- (sexual assault of an animal)."



1 SECTION 4. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.





**Report Title:**

Penal Code; Sexual Assault of an Animal; Prohibition

**Description:**

Amends the Penal Code to establish the crime of sexual assault , of an animal. Provides that the sexual assault of an animal is a class C felony or a class B felony if the offense subjects a minor to sexual contact with an animal or is committed in the presence of a minor. (SD1)

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